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May 23, 2005

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Kedari Reddy, Esq., Assistant Regional Counsel
United States Environmental
Protection Agency
Region 2
290 Broadway, 17th Floor
New York, New York 10007

**Re: Kearny Industrial Associates, L.P.
EPA, Region 2 Demand for Reimbursement
Lower Passaic River Study Area
Hudson, Bergen and Passaic Counties, NJ**

Dear Ms. Reddy:

I write in response to EPA's letter to Kearny Industrial Associates, L.P. ("KIA") dated May 3, 2005, demanding reimbursement for past costs incurred in connection with studies conducted at the "Lower Passaic River Study Area" that is part of the Diamond Alkali Superfund Site ("Diamond Site"). The demand was made pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA").

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We understand that EPA determined that there is a release or threatened release of hazardous substances, pollutants and contaminants into the six-mile stretch known as the "Passaic River Study Area." Based on other investigations, we understand that EPA has expanded the "area of study" to the entire 17-mile tidal reach of the Lower Passaic River.

By letter dated August 13, 2004, EPA advised KIA of its potential liability relating to the Diamond Site. EPA alleged that hazardous substances were being released from KIA's property located at 44 Passaic Avenue, Kearny, New Jersey ("Property"). For the reasons outlined below, KIA submits that the soil and ground water data for the KIA Property show that there was no release of a hazardous substance, pollutant or contaminant to the Passaic River.

KIA PROPERTY

The KIA Property is divided into two separate parcels: (1) The parcel located on the eastern side of Passaic Avenue is approximately 5.7 acres ("Parcel A"). It is approximately 450 feet from the Passaic River; (2) The parcel located on the western side of Passaic Avenue is approximately 1.3 acres ("Parcel B"). Its western boundary fronts the Passaic River. KIA sold this property to S&A Realty Corp. ("S&A") in 2000. Thereafter, S&A razed the buildings located on Parcel B.

The Property is relatively flat. Stormwater runoff is directed to the Town of Kearny's stormwater system.

PROPERTY USE

From the early 1900's to 1959, the site was owned and operated by the Linen Thread Company. Thereafter, the Property was owned by York Associates (1959 to 1963), Goldman, Goldman and DiLorenzo Partnership (1963 to 1988), DiLorenzo Properties (1988 to 1992) and KIA (1992 to present).

On February 15, 1980, the facility was leased to Airlite Aluminum Corporation ("Airlite"), the predecessor to American Modern Metals Corporation ("AMMCO"). AMMCO manufactured various aluminum products at the Property, including baseball bats.

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In early 2004, AMMCO closed operations and filed for bankruptcy protection. Thereafter, KIA assumed responsibility for the ISRA review at the Property. KIA's only asset is the Property.

ISRA REVIEW

The requirement to comply with the New Jersey Industrial Site Recovery Act ("ISRA") was triggered by the sale of the Property from Goldman, Goldman and DiLorenzo Partnership to DiLorenzo Properties in 1988. From 1992 to 2002, AMMCO's environmental consultant, Bell Environmental, conducted extensive investigations of the soil and ground water at the Property. The results of these investigations were discussed in detail in Remedial Investigation Reports ("RIR") dated September 1995, November 1999, July 2001 and May 2002. The November 1999 RIR summarized the areas of concern ("AOCs") at the Property as follows:

Soil AOCs

The New Jersey Department of Environmental Protection ("NJDEP") approved the consolidation of the soil AOCs into two site-wide AOCs (SWAOC-I and SWAOC-II). The two SWAOCs included all of Parcel A (SWAOC-I) and Parcel B (SWAOC-II). See Exhibit A. The primary contaminants detected in the soil were base neutral compounds ("BNs") and certain metals (arsenic, lead and aluminum). Bell Environmental advised NJDEP that these contaminants were likely related to historic fill present at the Property. On behalf of KIA, Bell Environmental proposed to install a cap (engineering control) and file a Deed Notice for the Property.

doesn't matter

exactly so (arsenic + lead) into fill

There is no data generated during the ISRA review showing that hazardous substances or pollutants were discharged from the KIA Property to the Passaic River. Additionally there is a bulkhead all along the waterfront, and there is therefore no potential for runoff to the river from the soils on the Property.

Ground Water AOCs

The 1999 RIR stated that there were four AOCs for ground water: (1) LNAPL at MW-7; (2) LNAPL at MW-1, MW-8 and MW-9; (3) aluminum in the ground water at MW-4 and MW-9, and (4) chlorinated hydrocarbons in the ground water at monitoring well BEC-12S. The results from ground water investigations conducted by Bell

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Environmental and Applied Earth Solutions ("AES") on behalf of KIA have shown that these ground water AOCs did not impact the Passaic River. In this regard, we note that MW-4 is located adjacent to the River. The concern in 1999 was that aluminum may be present in the ground water at this location. Ground water sampling and analysis using low flow sampling techniques demonstrated that aluminum was not present at levels above the NJDEP ground water quality standard.

OTHER ISSUES

1. The Diamond Site is located "down-river" and across the Passaic River from the KIA Property. Therefore, there is no relationship or nexus between the Diamond Site, including the six-mile "Passaic River Study Area", and the KIA Property.
2. EPA has not demonstrated any nexus between the KIA Property and 17 mile tidal reach of the Lower Passaic River. In addition, there is no nexus between the Diamond Site and the 17 mile tidal reach of the Passaic River. Therefore, It is unreasonable and contrary to the intent of CERCLA for EPA to seek recovery of its costs from KIA for the investigation of this area of the Passaic River.
3. Parcel B of the KIA property is located adjacent to the Passaic River. There is no data showing that hazardous substances from Parcel B discharged to the River. Additionally there is a bulkhead all along the waterfront, and there is therefore no potential for runoff to the river from the soils on the Property.

ABILITY TO PAY

KIA has discussed this matter with a representative of the Lower Passaic River Study Area Cooperating Parties Group ("Cooperating Parties Group"). As noted above, KIA's only asset is the KIA Property. KIA has entered into a contract to sell the Property. KIA also intends to submit its financial records and tax returns for the past two years to Mr. William Hengemihle for review and analysis. I will keep you advised of the results from this analysis.

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SUMMARY

KIA intends to complete its ISRA review. Based on the data generated to date there is no evidence that hazardous substances or pollutants discharged from the Property to the Passaic River. I will provide you with additional data for the Property as it is generated.

KIA intends to submit its financial information to the Cooperating Parties Group for review and analysis. As noted above, KIA's only asset is the KIA Property. It does not conduct any business operations. Therefore, it does not have the financial resources to pay the fees and assessments of the Cooperating Parties Group.

This letter will also confirm that you have given KIA an extension to reply to your letter until today, May 23, 2005.

Thank you for your consideration.

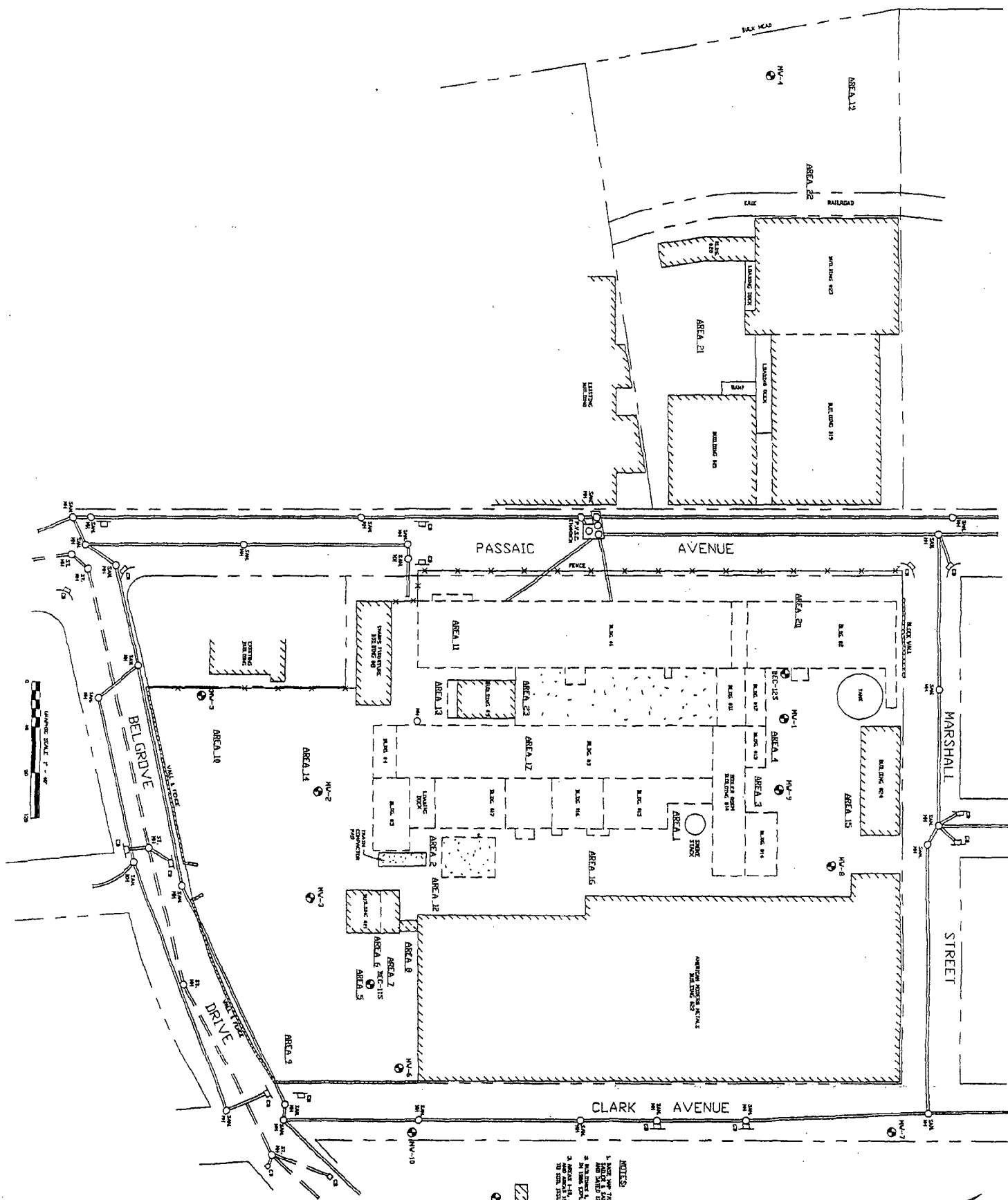
Very truly yours,



David W. Reger

DWR/dab
Enclosure

c: Mr. Ivan Rosalsky
Mr. Andrew Rodriguez
Michael S. Rubin, Esq.



959060006

AMERICAN MODERN METALS CORPORATION
65 PASSAIC AVENUE
KEARNY, HUDSON COUNTY, NEW JERSEY

SITE PLAN

FIGURE - 3

BELL ENVIRONMENTAL
Lakefront Professional Center
295C Route 46
Budd Lake, N.J. 07828



PERSONS		
DRIVE	E.C.S.	
CHARGE		
APPROVED		
DATE	DATE	REVISIONS